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In re Patent No. 7,101,550 :
Issued : September 5, 2006 : DECISION ON APPLICATION
Application No. 10/068,215 : FOR PATENT TERM ADJUSTMENT
Filed: February 6, 2002 :
Atty. Dkt. No.: GNN-004BDV :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 6, 2006. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,101,550 on September 5, 2006. The instant request for reconsideration was timely filed November 6, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 287 days. Patentees argue that the adjustment was improperly reduced 27 days in connection with the amendment filed April 25, 2006 under 37 CFR 1.312. Patentees further argue that the adjustment of 107 days in connection with drawings submitted May 22, 2006 overlaps with the 27 day reduction associated with the amendment.

Patentees' arguments have been carefully considered, but are not persuasive.

The Notice of Allowance was mailed February 22, 2006. An amendment was filed April 25, 2006. Accordingly, the adjustment of 576 days for Office delays was properly reduced an additional 27 days under 37 CFR 1.704(c)(4). The reduction began April 25, 2006, the date the amendment was filed, and ended June 9, 2006, the mail date of the Office's response to the amendment. The calculation of reduction takes into account the overlap with the reduction in connection with the drawings. Thus, in view of the overlap, the calculation of reduction ended May 21, 2006, or, 27 days later.

Patentees argue that the amendment submitted April 25, 2006 was expressly requested by the examiner. However, a review of the interview summary mailed April 27, 2006 indicates that applicants informed the examiner that applicants would submit a supplemental amendment to correct informalities. Thus, the assertion that the amendment was expressly requested by the examiner is not supported by the record.

The adjustment of 576 days was further reduced an additional 107 days in connection with the drawings submitted May 22, 2006 in accordance with 37 CFR 1.704(c)(10). The reduction began May 22, 2006, the date the drawings were submitted, and ended September 5, 2006, the date the patent issued.


There is no overlap between the two reductions contested by patentees. The reduction in connection with the amendment began April 25, 2006 and ended May 21, 2006, or, 27 days later, and the reduction in connection with the drawings began May 22, 2006 and ended September 5, 2006, or 107 days later.

In view thereof, at the time of issuance, the patent was entitled to a patent term adjustment of 287 days, as indicated on the patent.

The required fee of \$200.00 for an application for patent term adjustment has been charged to Deposit Account No. 06-1448, as authorized.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


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